

Introduced by Senator Dutton

February 3, 2010

An act to add Sections 11349.10 and 11349.11 to the Government Code, relating to the State Auditor.

LEGISLATIVE COUNSEL'S DIGEST

SB 942, as introduced, Dutton. State Auditor: analysis of regulations.

Under existing law, the State Auditor is required to perform financial and performance audits as directed by statute. Existing law also requires the Office of Administrative Law to review existing regulations, at the request of a legislative committee, to determine if they meet specified standards. If the office determines that the regulations do not meet those standards, existing law requires the office to order the repeal of those regulations, pursuant to specified procedures.

This bill would require the State Auditor to survey and perform a cost-benefit analysis of specified regulations that impose a cost on private persons or business, publish a catalog of these regulations and other findings related to them in the California Regulatory Notice Register, and consider public comment on them. The bill would require the State Auditor, if he or she determines that any of the regulations yield more costs to private persons or business than benefits, to notify the adopting agency in writing the reasons for its determination and to publish this determination and the reasons for it in the California Regulatory Notice Register. The bill would require the adopting agency to respond in writing to the State Auditor regarding whether the agency will amend or repeal the regulation or decline to do so. The bill would require the State Auditor to review and consider all information submitted by the agency in this connection and, if the State Auditor confirms that the cost of a regulation to private persons or businesses

exceeds its benefits, he or she would be required to prepare a statement specifying the reasons for its determination and to recommend to the Legislature that it enact legislation that will function to amend or repeal the regulation at the current legislative session. The bill would require that this catalog, analysis, and review process be subject to public comment, as specified.

This bill would also require that all regulations adopted after January 1, 2011, be repealed 10 years after their effective date unless the State Auditor determines, as specified, that the benefits of the regulation to private persons or businesses exceed its costs.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11349.10 is added to the Government
2 Code, to read:
3 11349.10. (a) Upon appropriation by the Legislature, the State
4 Auditor shall review all existing regulations that impose a cost on
5 private persons or business, excluding regulations that give effect
6 to federal law or impose costs on the basis of that private person
7 or business voluntarily contracting with the government. The State
8 Auditor shall make a preliminary determination of which
9 regulations appear to impose the most significant cost on private
10 persons or businesses, and shall prepare a catalog of these
11 regulations that lists them in order of cost, with those regulations
12 with the highest cost listed first. The State Auditor may decline to
13 include those regulations for which the costs appear to be
14 insignificant. The catalog shall be completed within one year of
15 completion of the review, and shall include all of the following:
16 (1) A brief description of the regulation.
17 (2) The effective date of the regulation.
18 (3) Whether the regulation is duplicative of any other regulation.
19 (4) An identification of the business sectors, if any, impacted
20 by the cost imposed by the regulation.
21 (b) Based on the regulations listed, the State Auditor shall
22 publish the catalog in the California Regulatory Notice Register
23 and consider the written comments submitted by interested persons
24 as to the order of the regulations listed in the catalog. The public

comment period and any revisions made to the catalog shall be completed within 30 days of the date of publication.

(c) Following the publication of the list in subdivision (b), the State Auditor shall prepare a preliminary cost-benefit analysis of each regulation in the order listed in the catalog, by applying the standards established by the Federal Office of Management and Budget, set out in the most recent publication of “Circular A-4” (Office of Management and Budget), and shall make a preliminary analysis of whether the cost of each regulation to a private person or business outweighs its benefit. In making this analysis, the State Auditor shall analyze the potential prospective costs and benefits of each regulation over the next five to 10 years. During the period of the preliminary analysis made pursuant to this subdivision, all information available to the State Auditor relating to the analysis shall be made available to the public.

(d) Upon completion of the preliminary cost-benefit analysis, the State Auditor shall publish its findings in the California Regulatory Notice Register, and shall consider the written comments submitted by interested persons. The public comment period and any revisions made to the preliminary cost-benefit analysis shall be completed within 30 days of the date of publication of the analysis. The State Auditor may change its findings based on the information received from the public during the comment period.

(e) The State Auditor shall prepare a final cost-benefit analysis within 60 days from the close of the public comment period described in subdivision (d). The final cost-benefit analysis shall list each regulation under which the cost to private persons or business exceeds the benefits of the regulation.

(f) If the State Auditor determines that any of the regulations subject to the analysis yield more costs to private persons or business than benefits, the State Auditor shall notify the adopting agency, and specify, in writing, the reasons for its determination that the cost of the regulation exceeds its benefits. The reasons for his or her determination shall be made available to the public. The State Auditor shall also publish this determination and the reasons for it in the California Regulatory Notice Register.

(g) On or before 60 days after the State Auditor has made the notification described in subdivision (f), the agency shall respond in writing to the State Auditor regarding whether the agency will

1 amend or repeal the regulation or decline to do so. Upon written
2 application by the agency, the State Auditor may extend the time
3 to respond an additional 30 days.

4 (h) (1) If the agency responds pursuant to subdivision (g) that
5 it will decline to amend or repeal a regulation, the State Auditor
6 shall review and consider all information submitted by the agency,
7 and determine whether it should reconsider its conclusion that the
8 costs of the regulation to private persons or businesses exceed its
9 benefits. The State Auditor shall make this determination within
10 60 days of receipt of an agency's response. In making this
11 determination, the office shall also review any written comments
12 submitted to it by the public within 30 days of the publication
13 required by subdivision (f) in the California Regulatory Notice
14 Register. During the period of review and reconsideration, the
15 information available to the State Auditor relating to each
16 regulation shall be made available to the public. The State Auditor
17 shall notify the adopting agency within two working days of the
18 receipt of information submitted by the public in this connection.

19 (2) If, after reconsideration, the State Auditor confirms that the
20 cost of a regulation to private persons or businesses exceeds its
21 benefits, it shall prepare a statement specifying the reasons for its
22 determination, and shall recommend to the Legislature that it enact
23 legislation that will function to amend or repeal the regulation at
24 the current legislative session. The statement and recommendation
25 shall be delivered to the adopting agency and the Legislature, and
26 shall be made available to the public and the courts.

27 (i) The requirements of this chapter do not apply to the actions
28 of the State Auditor in carrying out this section.

29 SEC. 2. Section 11349.11 is added to the Government Code,
30 to read:

31 11349.11. All regulations adopted on or after January 1, 2011,
32 shall be repealed 10 years after their effective date unless the State
33 Auditor determines, pursuant to Section 11349.10, that the benefits
34 of the regulation to private persons or businesses exceed its costs.